The Cass County Republican.

VOLUME III. DOWAGIAC, CASS COUNTY, MICHIGAN, THURSDAY, FEBRUARY 28, 1861. NUMBER 45.

The Republican,

Is Published every Thursday,
At Dowagiac, Cass County, Michigan.
By W. H. CAMPBELL.

OFFICE:
In G. C. Jones & Co.'s New Brick Block.

Terms of Subscription.

To office and mail subscribers $1,00 per annum, INVARIABLY IN ADVANCE.

When left by the Carrier, Fifty Cents additional will be charged on regular rates.

Rates of Advertising.

(Twelve lines or less considered as a Square.)

	1 w.	3 w.	4 w.	3 m.	6 m.	1 yr.
One Square..	50	1.00	1.25	2.50	3.50	5.00
¼ Column..	2.00	2.50	3.00	6.00	8.00	15.00
½ Column..	3.00	3.75	4.50	7.00	12.00	20.00
¾ Column..	4.00	5.00	6.00	10.00	15.00	25.00
1 Column....	5.00	7.00	8.00	15.00	25.00	50.00

The privileges of yearly advertisers will be confined rigidly to their business, and all other advertisements not pertaining to their regular business, to be paid for extra.

All legal advertisements charged at the statute prices.

All transient advertisements to be paid for in advance.

☞ THE ABOVE TERMS WILL BE STRICTLY ADHERED TO.

☞ JOB WORK every description neatly executed with promptness, on the most favorable terms. Orders solicited.

Home by the Sea.

BY MRS. L. L. DEMING.

I've twined me a bower
On the rock by the sea,
Where the light winds of Heaven
Sport careless and free,
And the wild-laughing waves,
Beneath the moon's light,
Leap forth to embrace me
Throughout the whole night.

I've gathered the dew
From the lips of the rose,
And pearls from the deep,
Where the mermaids repose.
With moss from the wild-wood
I've covered the floor,
And paved the rude rocks,
With shells from the shore.

Wil't thou come to my home, love?
Its beauty to share;
I will braid thee a couch
Of the wild leopard's hair,
And 'twine it with pearls
Where love light reposes,
And cover it o'er
With a cushion of roses.

When the dark wings of evening
O'er shadow the deep,
With a song of thine own
I will sing thee to sleep;
And when the bright moonbeams
Illume the dark sea;
I'll steal to thy couch, love,
And slumber with thee.

I'll weave thee a garland,
To 'twine in thy hair;
And a necklace of pearls,
For thy bosom so fair.
And I'll make for thy feet
Tiny slippers of shells;
And bind thy light robe
With a chain of gold bells.

O! say, wilt thou come,
To a home such as this?
Your life shall be ever,
One long dream of bliss;
So holy and pure
That angels above,
In wandering hither
Might envy our love.

The Personal Liberty Laws.

The Minority Report of the House Judiciary Committee.

The minority of the committee on the Judiciary, to whom was referred numerous petitions for the repeal of the personal liberty laws, so called, also a bill to repeal sections two, three and four of an act entitled an act to protect the rights and liberties of the inhabitants of this State, approved February 13, 1855; also a bill to amend sec. 25 of chap. 159 of the Revised Statutes of 1846, being sec. 5735 of the Compiled Laws as amended by act no. 189 of the session laws of 1859, respectfully report: "That they have been disposed to give the subject referred to them that serious consideration which belongs to it, under the circumstances in which it is now presented, and while the undersigned regret that the repeal or non-repeal of these laws has been, as we believe, most unwarrantably sought by some to be made a question of *party*, we shall not be deterred by any such considerations from meeting the question upon its merits.

If these laws are to be repealed, it must be either because they contravene some provision of the constitution of the United States or of this State, or because they are inexpedient and unwise, or wrong in their spirit and tendency.

On page 413 of the laws of 1855, act no. 162, we find "An act to protect the rights and liberties of the inhabitants of this State," the first section of which makes it the duty of the Prosecuting Attorney of each county when any inhabitant of this State is arrested or claimed as a fugitive slave, on being informed thereof, diligently and faithfully to use all *lawfully* means to protect and defend such person. To this provision, in itself considered, we do not see that any constitutional or other objection can be fairly made. It is no more than a humane provision to protect the rights of those who may be unlawfully arrested.

The next three sections provide that all persons so arrested and claimed as fugitive slaves, shall be entitled to the benefits of the writ of *habeas corpus* and of trial by jury; and that if the writ of *habeas corpus* be sued out in vacation, if upon the hearing, the person imprisoned, arrested, or claimed as a fugitive slave shall not be discharged, he shall be entitled to an appeal to the Circuit Court of the county, in which such hearing shall have been had, in furnishing bail, &c.; and that the Court to which such appeal shall be taken, or to which such writ of *habeas corpus* is returnable, shall on application of either party to the proceedings, direct a trial by jury on all question of fact in issue in such proceedings.

In the third subdivision of sec. 2 of article IV of the constitution of the United States, it is provided: "That no person held to service or labor in one State, under the laws thereof, escaping into another, shall, *in consequence of any law or reputation therein*, be *discharged from such service or labor;* but *shall be delivered* up on *claim* of the *party* to whom *such service* or labor *may be due*," which provision of the constitution Congress intended to carry out by the act of February 12, 1793, or chap. 51, (7), which provides a mode of making the claim, and the proof that labor and service is due, and a tribunal before which the claim and proof is to be made, and the provisions of which are sufficiently familiar to make the citation unnecessary; and still further by the fugitive slave law of 1850. This constitution was adopted but twelve years after the Declaration of Independence, and at a time when slavery existed, to a greater or less extent in all the States of the Confederacy, but when many of them were taking steps for its gradual abolition, to which as a desired consummation, those eminent patriots and true statesmen of the time, George Washington, James Madison, and Thomas Jefferson, labored with an earnest desire to see accomplished as soon as soon as it could with safety be done.

In many of the States, however, this could then not be accomplished. By the law of nations, and by the common law, the state of slavery is considered as a mere municipal regulation, limited to the range of the laws of the jurisdiction where it exists; and no State was bound to recognize the condition of slavery as to foreign slaves found within its territorial limits.

The clause of the Constitution above cited became therefore a necessary condition precedent to the adherence of those States to the Union which did not contemplate, from any cause, the speedy abolition of slavery.

Now, if this clause, or the laws passed by Congress to carry it into effect in pursuance of it, could be rendered ineffectual or hindered, by State legislation, then, so far forth the constitution would be nullified. In the language of Mr. Justice Story, in the case of Prigg vs. Pennsylvania 16 Peter's Reports, p. 612, delivered in 1842:

"The clause manifestly contemplates the existence of a positive unqualified right on the part of the owner of the slave, which no State law can in any way *qualify, regulate*, control or *restrain*. The slave is not to be discharged from service or labor in consequence of any State law or regulation. Now certainly, without indulging in any nicety of criticism upon words, it may fairly and reasonably be said that any State law or State regulation [we are still quoting Judge Story's words] which interrupts, limits, delays or postpones the right of the owner to the immediate possession of the slave, and the immediate command of his service and labor, operates *pro tanto* a discharge of the slave therefrom."

Congress having mistaken to provide for carrying out this provision of the constitution, and its action being in conformity with the provisions of the constitution, as has been repeatedly decided in the State Courts of Massachusetts, New York and Pennsylvania, and in every court in the United State where it has been called in question, it becomes a question how far the States can properly legislate upon the same subject. It may be conceded that on some subjects Congress has concurrent power of legislation with the States. But on this subject of the recapture of fugitive slaves it would seem to be a necessity that Congress should possess sole jurisdiction over the subject. First, because the power exists only by virtue of the constitution of the United States, and is there for the first time recognized, and is there recognized as an absolute right and duty, throughout the entire Union. As Mr. Justice Story remarks in the case above referred to, "It is in a just sense a new and positive right, independent of comity, confined to no territorial limits, and bounded by no State institutions or policy." And again, "It would be a strange anomaly and forced construction, to suppose that the national government meant to rely for the due fulfilment of its own proper rights and duties, and the rights which it intended to secure, upon State Legislation, and not upon that of the Union. *A fortori*, it would be more objectionable to suppose that a power which was to be the same throughout the Union should be confided to State sovereighty, which could not rightfully act beyond its own territorial limits. Secondly, the nature of the power and the objects sought to be attained, render it necessary that it should be exercised and controlled by the same will, and that uniform regulations should exist over the entire Union. If the States have the right of legislation on this subject, each State will adopt its own policy, prescribe its own rules and forms, according to the feelings and perhaps prejudices of its own people, and the laws of one State may be in direct conflict with, and wholly inconsistent with those of another. "Wherever," says Chief Justice Marshall in the case of Sturgis vs. Crowningshield 4, Wheaton, Rep. 122, "the terms to which a power is granted to Congress, or the *nature* of the power require that it should be exercised exclusively by Congress, the subject is as completely taken from State Legislatures as if they had been forbidden to act."

The Supreme Court of the United States, therefore, in the case of Prigg vs. Pennsylvania, in 1842, the opinion of the Court being rendered by Justice Story, of Massachusetts, and concurred in, as to its main conclusions, by Judges Thompson and Baldwin, all three of whom are departed from the conflicts of the present day, and by Chief Justice Taney and Justice McLane, Justice Daniel decided on these grounds, that the act of Pennsylvania, of 1826, entitled "An Act to give effect to the provisions of the Constitution of the United States relative to fugitives from labor, for the protection of free people of color, and to prevent kidnapping," under which Prigg was arrested and indicted for reclaiming and carrying into Maryland a fugitive slave, under the provisions of the Constitution and act of Congress, without conforming to the provisions of the State law, was unconstitutional and void. The majority of the Court holding that the power of legislation in relation to fugitives from labor, is *exclusive* in the *National* Congress, and that no State can pass any law on the subject. In this, Justices Story and McLane agree. While Chief Justice Taney and Justice Thompson held that the States might enact laws on this subject, which *did not* IMPAIR the right, but none which impeded or hindered recapture. But all agreeing that the points decided do not interfere with the police power of the States to arrest and imprison fugitives from labor, to guard against their depredations or misconduct, or to punish them for crimes committed in the States where found. All the Judges concurred that the constitutional provision on this subject was a fair compromise, the Southern States agreeing on their part that the importation of slaves into the United States should be prohibited after 1808. We may remark in passing, in view of this last consideration, that it behooves the free States to be cautious about infringing upon their part of the bargain.

The Supreme Court of the State of New York announced the same doctrine unanimously in 1834, in the case of Jack vs. Martin, 12 Wendell, Rep. 812, in which the constitutionality of the law of that State providing for the writ *de homine replegiando*, or writ for replevying a man, as against the agent or person claiming a fugitive slave, came directly in question. That Court declare that the law of the United States enacted to carry out the constitutional provisions, the Constitution being conceded to be supreme, "must be paramount from necessity, to avoid the confusion of adverse and conflicting legislation that "So far as the States are concerned, the power when thus exercised, is then exhausted —and though they might have desired different legislation on the subject, they cannot *amend, qualify, or in any manner alter it.*" That "this principle undoubtedly essential to the peace and harmony of the two governments."

Our own Supreme Court, six years since, unanimously declared the same doctrine, except that in that case the power of legislation was concurrent and not exclusive, being not in a slave case, but no less conclusive for that reason, on principle. The act of Congress of 1850 provides that mortgages or enrolled and licensed vessels shall be recorded in the office of the Collector of Customs for the proper district. The State law of 1846 provides that all chattel mortgages shall be recorded in the office of the town Clerk. The act of Congress is authorized, as all agree, under the clause in the Constitution, providing that Congress may regulate commerce, &c. The Court agreed that the State law, so far as it was inconsistent with the act of Congress, must yield.

The same principles are also abundantly declared in various cases, arising upon statutes on various subjects in the State and United States Courts.

But it would seem that the plain language of the constitutional provision in question, "That no person held to labor in one State under the laws thereof, escaping into another, shall in consequence of *any law or regulation therein*, be discharged from such service or labor," can hardly be mistaken by a candid mind.

Now those sections of the statute of Michigan, of 1855, propose, by a bill referred to the committee to be repealed provide for a different mode of trial from either of the acts of Congress, framed in accordance with this constitutional provision and provide, as did the laws of Pennsylvania and New York in the cases above referred to, for transferring the case from the authorities provided by the act of Congress, to a tribunal of its own. Now if a fugitive be discharged, under the *habeas corpus*, or on a jury trial, who had been taken under the act of Congress, is he not discharged from service or labor in consequence of the law of this State, into which he has fled? We think it clear that he is. The undersigned cannot, therefore, resist the conclusion, that these sections of the act last referred to, are unconstitutional, and should for that reason, if no other, be repealed.

But it has recently been claimed, that this law was not enacted for the purpose of preventing or hindering the arrest of Fugitive Slaves. What else could have been its object, judging from its provisions, its language, and the circumstances—for any other purposes of personal liberty, the punishing of kidnapping of our own citizens, ample provisions were already in the statute book. The known and inevitable operation of the act, if carried out, must be to prevent rendition of Fugitive Slaves—and we can only judge of the intent of an act by its necessary consequence, unless the law makers have otherwise specifically declared their intent. But in this instance we are not left wholly in the dark on this point, so far at least as the declarations of a committee of the last legislature on Federal Relations are concerned, when this subject was before them. They distinctly declare in their report that "the act of February 13, 1855, was designed, and if faithfully executed, will accomplish the object," for which the petitioners pray in one of the petitions referred to them, which, as the report states, was for the passage of a law, "to prevent the delivering up of Fugitive Slaves"— House journal of 1850, p. 27. There was no other occasion for the enactment of these sections. It was a fully recognized principle of American as well as English common law, that every slave, who sets his feet on our soil becomes thereby free, and it is only by operation of the clause of the Constitution we have recited, and the law passed, in pursuance of it that a slave can remain such on our soil, and under that provision only, when he is a fugitive and reclaimed according to its provisions.

Such a law too, being, as we have shown, wholly unnecesary for any practical purpose, except it be intended to interfere with the remanding of Fugitive Slaves, was extremely inexpedient and unwise in its origin, but under present circumstances, it becomes, in our judgment, obstinate persistence in wrong to retain it on the statute book. We say persistence in wrong, both, because the provisions of the law we have recited are unconstitutional, and because it is wrong to retain an unnecessary law, which is the occasion of all feeling, discord and strife both among our own people, and between ourselves and sister States of the confederacy. We therefore, unhesitatingly recommend that the second, third and fourth sections of the act of 1855, referred to, be repealed.

The amendment made by act 189 of the laws of 1859, to section 25 of chapter 153 of the Revised Statutes, provides that every person "who shall bring any negro, mulatto or other person into the State, claiming him or her as a slave, shall be punished by imprisonment in the State prison not more than ten years, or by fine not exceeding one thousand dollars."

This provision, so far as it provides a punishment for an act which in some cases is lawful, according to the clause of the Constitution and acts of Congress, we have referred to, cannot be sustained. A fugitive slave from Missouri may be taken in New York or in Ohio, under the act of Congress, and remanded, and the usual and natural route for his return would be through this State. And should the person having him in charge, under the certificate granted under the act of Congress be met by a mischief maker, of whom there are too many, and asked if the negro was a slave, and should reply affirmatively, he would thus be claiming him to be a slave, and, according to the plain letter of the law of 1859, above recited, would be rendered liable to its penalties. Such a law, according to the principles before adduced, and supported by the cases cited, cannot be constitutional so far forth. But it is said the Courts would not apply the act to such a case—they would hold that such was not the intent of the act. What, then, was its intent? The common sense and statutory rule of construction of laws, as laid down in sec. 3 of chap. 1 of the Revised Statutes, being section 2 of the Compiled laws, in the first subdivision of that section, is as follows:

"All words and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases, and such as have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to such peculiar and appropriate meaning."

Such a rule is necessary for public safety. The people at large are not lawyers, and naturally expect and believe that laws they are called upon to obey, mean what they express. This rule has never been relaxed by the Courts of last resort, in cases of conflict between State and United States laws, and in no other case, except occasionally when Courts wish to avoid a hard consequence of a general rule, and, as they think, in order to attain in a particular case, construe a statute to mean what they judge it should be made to mean. Again, there was no occasion for such an amendment to the statute for any other purpose. No one could voluntarily bring and *retain* a slave in this State by our law as it previously stood. Why, then attempt to punish as a crime, merely to claim a negro to be a slave, when it is impossible to make that claim a reality, without incurring a penalty previously enacted.

It has been said that this amendment was made to avoid the effect of the principles announced by some of the Judges of the Supreme Court of the United States in the Dred Scott case, under which, it is feared, that slavery could be established in Michigan, and such seems to have been the motive power applied to the committee of this House, who, in 1859, reported the amendment in question. [See journal of 1859, p. 537.] We do not hold ourselves bound, nor does any Court, by the atrocious doctrines, so announced by judges, which were wholly outside of the case before them, or of point upon which they professedly decided that case. So far as the opinions in that case are beyond the case itself, they were mere political documents. We might be disposed to give them the weight or opinions of good lawyers, did they not bear the ear marks of partizanship. But suppose these opinions to be law. Then they are constructions of the constitution and acts of Congress, and, so far as the law of 1850 is opposed to them, it is as unconstitutional as it is in the view we have before taken. The laws of the United States must neither be resisted nor nullified in this matter by loyal States.

It ill becomes us, who make charges of nullification and treason against the seceding States, to take such a step. We should clear our own skirts of all suspicion of complicity with nullification in the present crisis, and thus take away every just ground of complaint. If, when we have done this, our Southern brethren still presist in their mad schemes of rebellion and civil war, we have but to meet the issue like men who dare be free, but until then we cannot do it with clean hands or pure hearts, neither could we indulge the hope that the God of batteries would smile upon our cause.

And now, in concluding this report, for the sake of confirming the views we entertain and of satisfying some who have expressed a desire to know what were the opinions of the Judges of our Supreme Court of this State on the subject we have discussed, we will embody some extracts from letters from three of the gentlemen who occupy seats on that bench, written, to be sure, as private citizens, who have a right to have, and express their views, and although not of binding force, are certainly evidence of their views as lawyers, and entitled to great respect.

Chief Justice Martin says:—"I regard the law of 1855 both *unnecessary*, as the common law affords ample protection to the citizen if illegally arrested, and *unconstitutional*, as infringing upon the jurisdiction of Congress, which I hold to be exclusive upon the subject of the arrest and restoration of "fugitives from labor;" and I regard that of 1859 as *unconstitutional*, in so far as it renders penal, without qualification, an act which, in many cases, is made lawful by the constitution and laws of the United States, and is certainly contrary to the spirit of the Constitution. And, again, he continues, "Why should it be made a penal offence to merely claim that which it is impossible to make effectual without incurring a liability already provided for." And, again: "The difference between the *nullification* of a law of Congress and session is not so very wide, that we can with justice condemn the one, if we are ourselves guilty of the other."

Says Judge Campbell, in another letter: "When the Constitution of the United States places any subject under the control of the Legislative or other authority of the Union, it is either removed entirely from the province of State Legislation, or (in case where concurrent powers may be properly exercised), exempted from the operation of any unfriendly action. When Congress has once acted upon such a subject, no State can interfere with the Congressional action." Speaking of the case of Prigg vs. Pennsylvania, we have cited, Judge Campbell says:—"I think *that decision is not only binding, but right in principle.*" Again, he says:—"Our statutes do not merely legislate upon the same subjects with the acts of Congress, but they are plainly inconsistent with those acts. The Constitution plainly, and the acts of Congress expressly contemplate that a claim to fugitives shall be disposed of more simply and speedily than suits in the ordinary course of legal proceedings, which may be protracted infinitely. *When a fugitive is arrested under the act of Congress, no State has any right or power to interfere with the proceedings.* They are under the control, and therefore under the protection solely of the United States; nor has any State the right to interpose obstacles in the way of a lawful arrest which will vexatiously delay or impede it." Again, in referring to the claim made by some, that these laws may be allowed to stand for proper purposes, and that if void as to other, there is no need of their repeal, he says that:—"When a Court declares a thing plainly within the language of statute, to be exempt from its operation, because if embraced it would render the law unconstitutional, it is merely a roundabout way of declaring that the law is void. The meaning of a statute is not allowed to be gathered from the outside sources. Those who adopted it may have differed very widely in their views of the effect. It is not to be presumed that any honest man would *knowingly* violate his oath. And no explanation or declaration, in any form, can altar the meaning which the words fairly express." "Should such legislation be permitted to stand? I think not. When attention has been called to any existing abuse, those who permit it to continue are justly held responsible, in the eyes of all men, for its further continuance." "To subject the State to imputation of nullification is to expose our honor."

Judge Christiancy, in another letter on this subject, says: "The abstract question, whether these laws are unconstitutional is of no practical importance—it is a mere abstraction—for such is the peculiar nature of the case that the practical effect of either construction is the same—the one holding that it does not contain a particular provision, the other that it does contain that provision, but that such provision is void and therefore in legal effect the same as if it had never been inserted. But while these acts remain upon the statute book, unaltered, until decided upon by the Court of last resort, they will continue to have all the practical effect of unconstitutional laws. They are calculated to create doubts and lead to litigation. Their effect is also the same upon the public mind, both at the North and at the South. For to the popular apprehension all laws will be understood to operate to their legal extent."

And again the same gentleman remarks: "In such a contest as that we are now entering, we should not only *be*, but we should *also appear to be* clearly in the right."

Again in speaking of the act of 1859 he says: "I can not doubt that truth, justice, and sound policy equally require that the acts in question should be so modified as to bring them clearly and expressly within the Federal constitution."

Judge Christiancy reaches his conclusions by a different road from the other two Judges from whose letters we have extracted, but he arrives at the same point—the repeal and modification of these laws. These letters of course are not cited as binding authority, but as confirmations from a high source of the opinions of the minority of your committee.

At this point in the report, the minority of your committee have been favored with having heard read on the floor of this House the report of their brethren of the majority, and we cannot in justice to the subject refrain even now from noticing briefly some points in the document in which we consider most unfairly sustained. It is endeavored by the majority to evade the full force of the case of Prigg vs. Pennsylvania, by a sweeping assertion that all those portions of the opinions in that case which apply to the matter now in issue were mere *obiter dicta*, or "idle gabble of the judges." Now we assert, without fear of successful contradiction, that of the whole Court who sat in that case, certainly seven judges, possibly nine, though if Justices Catron and McKinley were present, they gave but a silent assent—agreed in the main, essential points, that *all unfriendly* State legislation on the subject of the restoration or recapture of fugitive slaves, was unconstitutional and void. Judge Taney, it is true, holds that the States may and should pass laws to *aid* and assist in carrying out the acts of Congress, and, therefore, that the power of Congress is not *exclusive*. But he holds, as do the whole Court, that the States can pass no act to impede or hinder the execution of the provisions of the Constitution or the laws passed under it; and this may be seen at a glance by referring to the opinion of Mr. Justice Wayne, on page 636 of 16th vol. Peters' Rep. who sums up the views of all his brethren and concurs wholly with Judge Storey.

So, also, the majority attempt to evade the force of the case of Jack vs. Martin, 12 Wendell, by saying that the law of New York in review, in that case provided for a *replevin*, and not a *habeas corpus*. But, were it not for the provision of the constitution in question, the *replevin* would be equally as legal as the *habeas corpus*. The opinion of the Court in that case, for the purpose for which we have before referred to it, is too clear and decisive to be avoided in that way.

And then the report lapses into a rhapsody over the *moderation* of the legislature of 1855, in not enacting a much more stringent law. From such modification may Heaven protect us! What kind of moderation it was, the Committee on State affairs of this House, of 1859, seem to have been fully aware. See journal, page 527-'8. The Committee of 1859 thought that the law of 1855, it faithfully executed, would prevent the delivering up of fugitive slaves. Now, under the excitement of the time, perhaps it is not strange that gentlemen of that Committee, who were not lawyers, should sanction such an intent. But shall we, "who know the right, still the wrong pursue."

The majority report also takes the ground that the fugitive slave act of 1850 is unconstitutional in so far as it denies the writ of *habeas corpus*. But we ask if this were so, does the law of 1793 allow the *habeas corpus*, or do the principles assumed by any of the seven Judges in Prigg vs. Pennsylvania, under this act, or do the majority of the committee, now, for the first time decide that act to be unconstitutional, and is not that act in force still? And to this connection the majority cite the case of Ableman vs. Booth, 21 Howard p. 506, at sustaining their position, and then extract from the opinion of the Court the following:

"We do not question the authority of a State court or judge, who is authorized by the laws of the State to issue the writ of *habeas corpus*, to issue it in any case where the party is imprisoned within its territorial limits, provided it does not appear, when the application is made, that the person imprisoned is in custody under the authority of the United States. The court or judge has a right to inquire, in this mode of proceeding, for what cause and by what authority the prisoner is confined within the territorial limits of the State sovereignty. And it is the duty of the Marshal, or other person having the custody of the prisoner, to make known to the judge or court, by a proper return, the authority by which he holds him in custody This right to inquire by process of *habeas corpus*, and the duty of officers to make a return, grows necessarily out of the complex character of our government, and the existence of two distinct and separate sovereignties within the same territorial space, each of them restricted in its powers, and each, within its sphere of action, prescribed by the constitution of the United States, independent of the other. But, after the return is made, and the State judge or court judicially apprised that the party is in custody under the authority of the United States, they can proceed no further. They then know that the prisoner is within the dominion and jurisdiction of another government."

We confess we are now only writing from memory of what the report contains, as we heard it read. But allow us to finish the paragraph, and the majority may have all they can make by the citation. The Court proceed in these words: "And that neither the writ of *habeas corpus*, nor any other